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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,944	12/12/2001	Israel Sarussi	P-2040-US	9891

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EXAMINER

WINAKUR, ERIC FRANK

ART UNIT PAPER NUMBER

3736

DATE MAILED: 07/15/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/831,944

Applicant(s)

SARUSSI, ISRAEL

Examiner

Eric F Winakur

Art Unit

3736

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 7/7/03 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 33-35.

Claim(s) objected to: 11, 24 and 25.

Claim(s) rejected: 1-10, 12-23 and 26-28.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____



Eric F Winakur
Primary Examiner
Art Unit: 3736

Continuation of 2. NOTE: The proposed amendments include the phrases "facing the tissue", "compress the tissue", "the direction of the compressed tissue" which improperly claim an element of the human body ("tissue") as part of the claimed subject matter. This raises the issue of applying a 101 (non-statutory subject matter) rejection. Further, Applicant argues details of the Ogawa reference. However, Applicant's arguments appear to be speculative and are not consistent with the description found in col. 2, lines 29 - 47 of the reference. Additionally, Applicant's amendment to limit the claims to a reflection arrangement only (in an attempt to remove the Rafert reference as prior art), raises the issue that the Rafert reference may be used as part of a 103 rejection for its teachings of projections for improving contact between the skin and the sensor .

Continuation of 3. Applicant's reply has overcome the following rejection(s): the proposed cancellation of claims 11, 24, and 25 would address the double patenting objection regarding duplicate claims.